

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(224)

CRM-M-51605-2021

Date of Decision: 22.02.2022

Krishan @ Sonu

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.K. Jindal, Advocate for the petitioner.

Mr. Vishal Kashyap, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.36 dated 27.3.2021 under section 6 of POCSO Act, sections 376(3), 506 I.P.C and section 3(2)(v) of SC/ST Act (Sections 376(2)(a) and Section 452 I.P.C were added later on), registered at Police Station, Jind, District Jind.

As per factual matrix, the FIR in question was lodged by Rajender son of Basau Ram. It was alleged that his daughter (name concealed), who is 14 years old went to play wrestling in the Govt. School, Kinana on 27.3.2021 at about 3.30 PM. Sonu son of Amarnath used to give coaching of wrestling to the boys and girls. He gagged the mouth of his minor daughter and committed rape with her forcibly in the school itself. He threatened the victim to be killed in case the incident is disclosed to anyone. Prayer was made to take legal action against the culprit.

The investigation commenced and petitioner was arrested on 30.3.2021. He approached learned Addl. Sessions Judge, Jind for grant of bail, however, after hearing the parties, the same was declined vide order

dated 22.11.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case only because the prosecutrix is a minor. He submits that all the material witnesses i.e. victim and her parents have already been examined before the Trial Court and all these witnesses have turned hostile. Counsel has drawn attention of this Court to the medical conducted of the victim and submits that there are no external marks of injuries all over the body of the victim. However, the hymen is found to be ruptured and old healed. It is also submitted that the case of the prosecution is not even supported by the medical evidence. Counsel submits that from the facts and circumstances of the case, it is apparent that the petitioner has been falsely implicated in the present case and no offence under Section 376 I.P.C is made out against him.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that victim is less than 15 years of age and even if the argument raised by counsel for the petitioner for showing consent of the victim is accepted even then that has no relevance in the eyes of law as the victim is a minor. It is submitted that though the material witnesses have not supported the case of the prosecution, however, the official witnesses are yet to be examined.

I have heard learned counsel for the parties at length and have gone through the record carefully.

Admittedly, the victim in the case is a minor. Petitioner is the coach of the victim. There is no gainsaying that the victim and her parents have not supported the case of the prosecution, however, the court cannot

loose sight of the fact that most of the official witnesses are yet to be examined. The veracity of the allegations can only be assessed after the ocular as well as medical evidence produced before the Trial Court. The material witness already stands examined.

In the totality of facts and circumstances of the case, this Court finds no ground to grant bail to the petitioner. The petition being devoid of any merit, is accordingly dismissed.

(RAJESH BHARDWAJ)
JUDGE

22.02.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No